

JOHN F. COOK
MAYOR

JOYCE WILSON
CITY MANAGER



CITY COUNCIL
ANN MORGAN LILLY, DISTRICT 1
SUSANNAH M. BYRD, DISTRICT 2
J. ALEXANDRO LOZANO, DISTRICT 3
MELINA CASTRO, DISTRICT 4
PRESI ORTEGA, JR., DISTRICT 5
EDDIE HOLGUIN JR., DISTRICT 6
STEVE ORTEGA, DISTRICT 7
BETO O'ROURKE, DISTRICT 8

SPECIAL CITY COUNCIL MEETING MINUTES
10TH FLOOR CONFERENCE ROOM
OCTOBER 24, 2005
9:00 A.M.

The City Council met at the above place and date. Meeting was called to order at 9:10 a.m. Mayor John Cook present and presiding and the following Council Members answered roll call: Ann Morgan Lilly, Susie Byrd, Jose Alexandro Lozano, Melina Castro, Presi Ortega, Jr., Eddie Holguin, Jr., Steve Ortega and Beto O'Rourke. Early departures: Presi Ortega, Jr. at 10:50 a.m. and Steve Ortega at 11:00 a.m.

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AGENDA

1. Staff briefing and discussion and action on the elements and legal issues of the development process.
2. The City Council of the City of El Paso may retire into **EXECUTIVE SESSION** pursuant to Section 3.5A of the El Paso City Charter and the Texas Government Code, Chapter 551, Subchapter D, to discuss any of the following: (The items listed below are matters of the sort routinely discussed in Executive Session, but the City Council of the City of El Paso may move to Executive Session any of the items on this agenda, consistent with the terms of the Open Meetings Act.) The City Council will return to open session to take any final action and may also, at any time during the meeting, bring forward any of the following items for public discussion, as appropriate.

Section 551.071 CONSULTATION WITH ATTORNEY
Section 551.072 DELIBERATION REGARDING REAL PROPERTY
Section 551.073 DELIBERATION REGARDING PROSPECTIVE GIFTS
Section 551.074 PERSONNEL MATTERS
Section 551.076 DELIBERATION REGARDING SECURITY DEVICES
Section 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS

3. Adjournment.
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Mr. Charlie McNabb, City Attorney, gave an overview of the meeting proceedings.

Ms. Patricia Adauto, Deputy City Manager, Infrastructure and Development Services, gave a Powerpoint presentation. (presentation on file in the City Clerk's Office)

Mr. McNabb stated Council may adopt a plan as an amendment to the Comprehensive Plan.

Representative O'Rourke stated City Council must pay attention to the Comprehensive Plan and asked what the Comprehensive Plan meant in legal terminology.

Mr. McNabb responded that City Council can make zoning changes that do not conform to the Comprehensive Plan but that a Court can determine if the zoning change was done capriciously.

Representative Presi Ortega, Jr. asked what PSB land is available.

Representative Byrd asked how many acres is available for development.

Representative Lilly asked if the City allowed trade of land.

Mr. McNabb responded yes, if it is of comparable value.

Representative Lozano asked if an arroyo would not be as beneficial compared to land.

Representative Steve Ortega asked if low density residential is considered R-1.

Representative Byrd asked if the Manhattan Heights District is considered low density.

Mayor John Cook asked which subdivisions would be considered medium density.

Ms. Adauto responded most subdivisions in El Paso are low density.

Mr. McNabb made remarks regarding "Procedural & Ethical Issues in Land Planning Matters" of the Powerpoint presentation. (presentation on file in the City Clerk's Office)

Representative Steve Ortega asked Mr. McNabb questions regarding zoning and if it were delegated.

Representative Lozano asked Ms. Adauto questions regarding subdivision park zone fees.

Representative O'Rourke asked Ms. Adauto questions on a report on the monies spent.

Representative Lozano asked if there is a fund balance and an accrual of the fees.

Representative Byrd asked what the cost is to develop a park.

Mr. George Sarmiento, Deputy Director of Planning, responded to Representative Byrd's question.

Representative Presi Ortega, Jr. asked who makes the determination as to park versus fee, the Parks and Recreation Director or the City Plan Commission. Additionally, he stated that while a fee is nice, park land has been given away.

Ms. Adauto explained that the Parks and Recreation Department has historically liked larger parks. She explained subdivisions are usually between 100 to 150 lots, additionally, the standard of lots **verses** parks would required a 1,000 unit subdivision for a five (5) acre park.

Ms. Joyce Wilson, City Manager, answered Mayor Cook's question as to how other cities accomplish development of parks. She explained that other cities use their Master Plan.

Ms. Adauto explained to Representative O'Rourke that the City's standards for required park space in new developments are low compared to other cities.

Representative O'Rourke commented on El Paso's low percentage.

Representative Lozano suggested that the City use ponding areas for soccer fields.

Mr. McNabb explained that safety has to be considered in reviewing the design of ponding areas if they are being considered as parks. Some ponding areas may never be suitable due to safety and aesthetic reasons.

Representative Lozano asked Ms. Adauto questions regarding special permits and whether or not the City could have a contract with the owner to further restrict the usage within the allowed usage for that special permit.

Mr. McNabb explained the legal restrictions regarding special permits. He noted that the City cannot do contract zoning which automatically reverts a zoning designation upon sale of the property. He added that one must proceed through the entire zoning process to determine the proper use.

Representative Lozano asked Ms. Adauto questions regarding infill overlays.

Representatives Lozano and Lilly asked questions regarding roof and balloon signs.

Mr. Shubert, Director of Development Services, and Mr. McNabb explained why there has been a transition period for some existing roof top signs.

Representative Lozano asked Ms. Adauto questions regarding floor area ratio on lots and buildings.

Ms. Adauto explained the use and zoning affect the floor area ratio.

Mr. McNabb added this controls the density.

Representative Steve Ortega asked how many feet within the Planning rezoning requires notice be given to the neighbors.

Mr. McNabb and Ms. Adauto responded 300 feet as per City Ordinance; 200 feet as per State statute. Additionally, Mr. McNabb explained 211.006(d) cases.

Representative Lilly asked if notice is required for subdivision plats.

Ms. Adauto explained that notices are not mailed in subdivision plat cases; the notice is the City Council agenda.

Ms. Wilson explained that the City is in the process of reviewing the notice process to implement web-based notifications.

Representative Presi Ortega, Jr. asked if there are any tax credit projects.

Ms. Wilson explained that Community Development is monitoring tax credit projects.

Mr. McNabb added down zoning means putting more restrictions on the property owners.

Representative Steve Ortega asked Mr. McNabb questions regarding down-zoning, vested property rights and due process. Mr. McNabb elaborated.

Mr. McNabb and Ms. Adauto commented on overlay zones and the Historic Preservation ordinance. Additionally, comments were made regarding the transfer of development rights; specifically, the Grand Central Station case in the U.S. Supreme Court. Transfer of Development Rights ("TDRS") are common in other cities.

Representative O'Rourke asked if the City could utilize TDRs now.

Ms. Adauto responded it was a concept that the Department will have to address heavily it is a mechanism that will allow us to less the takings issue.

Mr. McNabb added that the TDRs may mesh with the design to implement new urbanism.

Representative Lilly asked Mr. McNabb questions regarding air space.

Representative Lozano asked Mr. McNabb questions regarding the railroad space between City Hall and the Civic Center and the use of eminent domain.

Mr. McNabb explained railroads also have eminent domain powers and the City has never looked at using eminent domain powers against the railroads.

Representative Steve Ortega asked if the subdivision code has to be uniformly applied.

Mr. McNabb responded subdivision follows the zoning of an area.

Representative Steve Ortega asked in extraterritorial jurisdiction, can specific subdivision requirements be applied.

Ms. Adauto responded yes and explained that the City has worked with the County of El Paso to adopt the City's standards.

Representative O'Rourke asked Mr. McNabb to explain "limit discussion or contact outside of hearing" (with application, citizens or other members).

Mayor Cook asked Mr. McNabb if there are limitations to City Plan Commissioners on exparte communications.

Mr. McNabb responded yes, the City Plan Commission has stricter exparte rules.

Representative O'Rourke asked Mr. McNabb if it is advisable that City Council members not attend City Plan Commission meetings.

Mr. McNabb responded it is problematic for City Council members to attend City Plan Commission meetings, participate and advocate in the meetings.

Mayor Cook noted it was better that City Council members not attend City Plan Commission meetings.

Mr. McNabb advised if Council Members are the appellate body, they should not participate in the original decision.

Representative Lozano asked Mr. McNabb for a fuller explanation regarding City Council member's attending City Plan Commission meetings.

Mr. McNabb gave a scenario that showed how a conflict and individual liability for Council could be created by the appellate body participating in the original decision at a board meeting.

Representative Lozano concurred with Mr. McNabb's statement that it is best not to attend and participate in the original decision.

Ms. Wilson explained that the City is looking for the Urban Land Institute to come in December to help shepherd the City through the process of developing an Urban Growth Plan.

Ms. Adauto added that the Urban Growth Plan is being drafted.

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Motion made by Representative O'Rourke, seconded by Representative Lozano and unanimously carried to **ADJOURN** this meeting at 11:08 a.m.
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APPROVED AS TO CONTENT:

Richarda Duffy Momsen, City Clerk